

## **REMARKS**

In view of the above amendments and the following remarks reconsideration and further examination are respectfully requested.

### **I. Amendments to the Claims**

Claims 15-21 have been amended to clarify features of the invention. In addition, new claim 22 has been added to include the limitations removed from claim 15, and as a result, does not add new matter.

### **II. Claim Rejections under 35 U.S.C. § 101**

Claims 16-21 were rejected under 35 U.S.C. § 101 for being directed to non-statutory subject matter. Specifically, claims 16-21 were rejected under 35 U.S.C. § 101 for not being directed to a “process” or a “machine.” This rejection is respectfully traversed for the following reasons.

Initially, Applicants note that independent claim 15 is directed to a system including an optical disc and a playback apparatus having a processor and a memory. As a result, it is submitted that the system of claim 15 is clearly a “machine,” since the system requires physical hardware (i.e., the optical disc, the processor and memory) capable of performing specific functions. Claims 16-21 depend from claim 15 and further limit a component (i.e., optical disc) of the system (i.e., machine) of claim 15. Therefore, by virtue of their dependence on claim 15 and by further limiting a component (i.e., the optical disc) of the system (i.e., machine) of claim 15, it is respectfully submitted that claims 16-21 are clearly directed to a “machine.” Moreover,

no portion of claims 16-21 recite method steps that could be interpreted as a process. As a result, withdrawal of this rejection is respectfully requested.

### **III. Claim Rejections under 35 U.S.C. § 112**

Claims 16-21 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particular point out and distinctly claim the subject matter which Applicants regard as the invention. By the present amendment, Applicants have amended claims 16-21 to overcome these rejections.

As clarified above in section II, dependent claims 16-21 are directed to a “machine,” because claims 16-21 further limit a component of the system (i.e., machine) recited in independent claim 15 and no portion of claims 16-21 include method steps that could be interpreted as a “process,” as suggested in the Office Action.

Specifically, claim 16 was rejected for reciting that the AV stream is a stream that is obtained by *multiplexing* a video stream. Although, claim 16 does recite the term “multiplexing,” it is respectfully submitted that claim 16 does not recite a step of multiplexing, but rather recites that the optical disc (which is a component of the system) includes an AV stream. Claim 16, as well as claims 17-21, has been amended to clarify this feature. Further, claim 16 simply describes how the AV stream is obtained in order to define the structure of the AV stream. However, claim 16 does not recite a method/process of multiplexing the video stream to obtain the AV stream.

In view of the above, it is respectfully submitted that claim 16 is not indefinite and complies with the requirements of 35 U.S.C. § 112, second paragraph.

Furthermore, claim 18 was rejected for not clarifying whether the server apparatus is a component of the claimed system. Claim 18 has been amended to clarify that the server apparatus is not a component of the system, but is rather a component of an external system. Furthermore, Applicants respectfully submit that no part of claims 16-21 recite that the system comprises/includes the server apparatus. As a result, withdrawal of this portion of the 35 U.S.C. § 112, second paragraph rejection is respectfully requested.

#### **IV. Claim Rejection under 35 U.S.C. § 103**

Claim 15 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamada in view of Candalore.

However, in item 35 on page 13 of the Office Action, the Examiner indicated that claim 15 would recite allowable subject matter if amended to recite conditional elements B, C and D and if amended to remove conditional element A. The Applicants would like to thank the Examiner for this indication and believe that amended claim 15 and claims 16-22 that depend therefrom are allowable in view of the Examiner's indication of allowable subject matter.

Initially, the Applicants acknowledge that, as noted in the Office Action, “conditional element A” and “conditional element B” are alternatives to each other based on whether or not the processor judges that the disc region code matches the apparatus region code assigned to the apparatus. Furthermore, the Applicants acknowledge that, as noted in the Office Action, “conditional element C” and “conditional element D” are alternatives to each other based on whether or not the process judges that the combination of the content identifier read by the process or the apparatus region code satisfies the predetermined condition defined by the owner

of the rights of the content.

In view of the above, claim 15 has been amended to remove conditional “alternative” elements A and D so as to require conditional elements B and C. Specifically, amended claim 15 recites a system including an optical disc and a playback apparatus including, in part, a memory and a processor. Further, claim 15 recites that, when the processor judges that the disc region code does not match the apparatus region code, the processor judges whether a combination of the content identifier read by the processor and the apparatus region code satisfies a predetermined condition defined by an owner of rights of the content (this is element B as identified by the Examiner), and when the processor judges that the combination of the content identifier read by the processor and the apparatus region code satisfies the predetermined condition defined by the owner of the rights of the content, (i) the processor replaces the predetermined part of the content recorded on the optical disc with the substitute content of the predetermined additional data that is stored in the memory and that corresponds to the optical disc, in order to create a predetermined package, based on the substitute play back order of the predetermined additional data that is stored in the memory and that corresponds to the optical disc, and (ii) the playback unit plays back the created predetermined package (this is element C as identified by the Examiner).

Therefore, in view of the Examiner’s indication of allowable subject matter and in view of the above-mentioned amendment to claim 15 to require elements B and C, it is respectfully submitted that claim 15 and claims 16-22 that depend therefrom are now allowable. Therefore, withdrawal of the 35 U.S.C. § 103(a) rejection is respectfully requested.

**V. Conclusion**

In view of the above amendments and remarks, it is submitted that the present application is now in condition for allowance and an early notification thereof is earnestly requested. The Examiner is invited to contact the undersigned by telephone to resolve any remaining issues.

Respectfully submitted,

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